

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT GREENEVILLE

TONYA G. McGAHA	)	
336 Leaf Way	)	
Newport, TN 37821	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Civil Action No. 2:14-cv-169
	)	JURY DEMANDED
	)	
J.B. HUNT TRANSPORT SERVICES, INC.	)	
D/B/A J.B. HUNT,	)	
	)	
J.B. HUNT TRANSPORT, Inc.	)	
D/B/A J.B. HUNT,	)	
	)	
L.A., INC.	)	
D/B/A J.B. HUNT,	)	
	)	
J.B. HUNT CORP.	)	
D/B/A J.B. HUNT,	)	
	)	
J.B. HUNT LOGISTICS, INC.	)	
D/B/A J.B. HUNT,	)	
	)	
and	)	
	)	
EUGENE DANIEL, JR.	)	
	)	
Defendants.	)	

**COMPLAINT**

Comes Plaintiff, through counsel, and sues Defendants, and for her cause of action states:

1. Jurisdiction in this matter is based on amount in controversy and diversity of citizenship. 28 U.S.C., Section 1332(a) (1) and (c). Plaintiff is a citizen and resident of Newport, Tennessee. The corporate Defendants were formed in states other than Tennessee and have principal places of business located in states other than Tennessee. Defendant Eugene Daniel, Jr. is a resident of Jefferson, Georgia. The incident complained of herein took place in Hamblen

County, Tennessee and the amount in controversy exceeds \$75,000.

2. Defendant J.B. Hunt Transport Services, Inc. is an Arkansas Corporation with a principal place of business located at 615 J.B. Hunt Corporate Drive, Lowell, AR 72745 whose agent for service of process is John Roberts, 615 J.B. Hunt Corporate Drive, Lowell, AR 72745

3. Defendant J.B. Hunt Transport, Inc. is a Georgia Corporation with a principal place of business located at 615 J.B. Hunt Corporate Drive, Lowell, AR 72745 whose agent for service of process is Corporation Service Company, 2908 Poston Avenue, Nashville, TN 37203.

4. Defendant L.A., Inc. is an Arkansas Corporation with a principal place of business located at 615 J.B. Hunt Corporate Drive, Lowell, AR 72745 whose agent for service of process is John Roberts, 615 J.B. Hunt Corporate Drive, Lowell, AR 72745

5. Defendant J.B. Hunt Corp. is a Delaware Corporation with a principal place of business located at 615 J.B. Hunt Corporate Drive, Lowell, AR 72745 whose agent for service of process is The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801.

6. Defendant J.B. Hunt Logistics, Inc. is an Arkansas Corporation with a principal place of business located at 615 J.B. Hunt Corporate Drive, Lowell, AR 72745 whose agent for service of process is John Roberts, 615 J.B. Hunt Corporate Drive, Lowell, AR 72745

7. The corporate Defendants (hereafter referred to collectively as “J.B. Hunt”) own and operate a trucking company that does business as J.B. Hunt.

8. Defendant Eugene Daniel, Jr. is a citizen and resident of Georgia residing at 844 Martin Luther King, Jefferson, GA 30549.

9. On June 10, 2013, Plaintiff was working as an employee of Colgate-Palmolive Company in Morristown, Tennessee.

10. On this same day, Eugene Daniel Jr., an employee of J.B. Hunt, was operating a tractor-

trailer truck owned by and registered to J.B. Hunt at the Colgate-Palmolive location in Morristown, TN. Defendant Daniel was at the location to pick up a trailer after it had been loaded.

11. After the Plaintiff loaded the trailer, she went into the driver's lounge where Defendant Daniel was waiting. Plaintiff then informed Defendant Daniel that she would meet him outside where she would remove the trailer jack so that he could back the tractor up and connect it to the loaded trailer.

12. Plaintiff then went outside and began removing the trailer jack.

13. At some point while Plaintiff was removing the trailer jack, Defendant Daniel backed the tractor up in an attempt to connect the tractor to the loaded trailer striking Plaintiff and pinning her between the tractor and trailer.

14. When another employee of Colgate-Palmolive, believed to be April Rose, noticed that Plaintiff was pinned between the tractor and trailer the employee screamed "Stop" and gestured with her hands to alert Defendant Daniel and convince him to stop.

15. But for this employee's actions, Plaintiff likely would have been killed.

16. As a direct and proximate result of being struck by the J.B. Hunt truck operated by Defendant Daniel, Plaintiff incurred serious personal injuries.

17. At all times material hereto, Defendant Daniel had a duty of care to operate the truck in a reasonably safe manner, such that people around the truck would not be injured or exposed to an unreasonable risk of harm. Defendant Daniel breached this duty and was negligent in the following ways, any one of which was a departure from the accepted standard of care owed to the Plaintiff:

- A. In failing to confirm that Plaintiff had removed the trailer jack before backing up to the trailer;
- B. In failing to keep a proper lookout;
- C. In operating the truck in a reckless manner;

- D. In operating the truck without regard for the safety of Plaintiff or other pedestrians;
- E. In failing to keep the truck under due and reasonable control under the circumstances;
- F. In failing to wait for Plaintiff to notify him that the trailer jack had been removed before backing up to the trailer;
- G. In failing to confirm that Plaintiff was not in an area where she would be struck and/or pinned before backing up to the trailer; and
- H. In failing to exercise due care.

18. Defendant Daniel was guilty of negligence *per se* by violation of Tennessee Code Annotated as follows:

- A. In driving in willful and wanton disregard for the safety of persons and property in violation of Tenn. Code Ann. § 55-10-205(a).
- B. In failing to keep a proper lookout in violation of Tenn. Code Ann. § 55-8-136.
- C. In failing to exercise due care in violation of Tenn. Code Ann. § 55-8-136.

19. Defendant Daniel's actions and/or inactions were willful, wanton, intentional, malicious, and/or reckless such that punitive damages are warranted and should be awarded.

20. At the time of the collision, Defendant Daniel was driving a vehicle owned by and registered to J.B. Hunt Transport Services, Inc., J.B. Hunt Transport, Inc., L.A., Inc., and/or J.B. Hunt Corp., J.B. Hunt Logistics, Inc. (collectively "J.B. Hunt") and was operating said vehicle in furtherance of J.B. Hunt's business; his negligence is therefore imputed to J.B. Hunt by virtue of the doctrine of respondeat superior and T.C.A. 55-10-311: Prima facie evidence of ownership of automobile and use in owner's business and T.C.A. 55-10-312: Registration prima facie evidence of ownership and that operation was for owner's benefit.

21. At the time Defendant Daniel negligently operated the tractor-trailer, he was in the course and scope of his employment with J.B. Hunt; therefore J.B. Hunt is liable for the negligent acts and

omissions of Eugene Daniel, Jr., its employee and agent.

22. As a direct and proximate result of the negligence of the Defendants, Plaintiff Tonya McGaha has received serious personal injuries, some or all of which are permanent; these injuries include, but are not limited to injuries to her back and post-traumatic stress disorder; as a result of this, Plaintiff has suffered continuous physical pain and mental distress; disfigurement; has suffered a permanent diminished capacity to enjoy life; has sustained loss of income and diminished earning capacity; has incurred medical bills for treatment and care, and will continue to do so in the future.

WHEREFORE, Plaintiff Tonya McGaha demands judgment of a fair and reasonable amount of compensatory damages to be determined by the jury, but in excess of Seventy Five Thousand (\$75,000.00) Dollars; a fair and reasonable amount of punitive damages to be determined by the jury; costs, pre-judgment interest; a jury to try this action; and any other general relief to which she is entitled.

Respectfully submitted this 10<sup>th</sup> day of June, 2014.

By: s/Eric B. Foust.  
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